



# Department of Justice

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## **JUSTICE DEPARTMENT'S ONGOING PROBE INTO THE FOOD AND FEED ADDITIVES INDUSTRY YIELDS SECOND LARGEST FINE EVER**

### **Bayer Subsidiary Agrees to Pay \$50 Million Criminal Fine**

WASHINGTON, D.C.-- Haarmann & Reimer Corp., a New Jersey-based U.S. subsidiary of the Germany-based pharmaceutical and chemical giant Bayer AG, has agreed to plead guilty and pay a \$50 million criminal fine--the second largest criminal antitrust fine ever--for participating in an international conspiracy to fix prices and allocate sales in the citric acid market worldwide, the Department of Justice said today.

A senior executive at the Germany-based Haarmann & Reimer GmbH, Hans Hartmann, a German citizen, also has been charged for his role in the international citric acid conspiracy.

"This \$50 million criminal fine is a clear message to corporations around the world," said Attorney General Janet Reno. "We will not tolerate international conspiracies that defraud American consumers, and those companies that engage in collusive conduct will be punished."

This is the fourth round of charges filed as a result of the Department's ongoing investigation into illegal, collusive practices in the food and feed additives industry. With today's fine, the Department's food and feed additives investigation has recovered more than \$170 million in criminal fines since charges were first brought in August.

In October, Archer Daniels Midland Co. pleaded guilty and was fined \$100 million--the largest criminal antitrust fine ever--for its participation in international conspiracies involving two such additives--citric acid and lysine.

In December, a Chicago federal grand jury indicted three former top ADM executives and a Japanese executive--Michael D. Andreas, Mark E. Whitacre, Terrance S. Wilson and Kazutoshi Yamada--for conspiring to fix prices and allocate sales in the lysine market worldwide. A trial date has yet to be set. At the same time, a Korean company--Cheil Jedang Ltd.--pleaded guilty

and agreed to pay a \$1.25 million fine for its involvement in the conspiracy.

Citric acid is a flavor additive and preservative produced from various sugars. It is found in soft drinks, processed food, detergents and pharmaceutical and cosmetic products. Citric acid is a \$1.2 billion a year industry worldwide.

"This conspiracy affected literally hundreds of commonly used household foods and products--and almost every consumer in the United States," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "The Department will continue to seek out and prosecute all international conspiracy rings that increase prices for consumers and unfairly impede free and open competition in our markets."

Today's charges are another chapter in the Department's ongoing investigations being conducted by the San Francisco, Chicago and Atlanta Field Offices of the Antitrust Division, the Federal Bureau of Investigation in San Francisco; Springfield, Illinois and Atlanta, and the United States Attorney's Office in Chicago.

The felony criminal charge against Haarmann & Reimer and Hans Hartmann was filed in the U.S. District Court in San Francisco. Haarmann & Reimer and Hans Hartmann have agreed to cooperate in the ongoing government investigations. They have also played a significant role in securing the cooperation of co-conspirators. Haarmann & Reimer has authorized the government to disclose the basic terms of the plea agreement. The plea agreement must still be accepted by the court.

"This is by no means the final chapter in this investigation--the Department's investigation is continuing," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement. "With the new global economy, the Antitrust Division's top priority in criminal enforcement is to investigate and prosecute international cartels which adversely affect American consumers. We will bring charges against members of these cartels whether they are located in the United States or abroad."

The felony case charges that Haarmann & Reimer, through several of its employees, conspired with other unnamed major citric acid-producing firms to suppress and eliminate competition in the citric acid market from July 1991 to June 1995. Haarmann & Reimer, headquartered in Springfield, New Jersey, produces citric acid at its three plants in Elkhart, Indiana; Dayton, Ohio and Selby, England.

The felony case charges that Haarmann & Reimer and Hans Hartmann met with their co-conspirators in the citric acid markets to set the prices and allocate the sales volume of citric acid.

The single-count felony information charges that Haarmann & Reimer Corp. and Hans Hartmann:

- Agreed to charge citric acid prices at certain levels and to increase those prices accordingly.
- Agreed to allocate among the corporate conspirators the volume of citric acid to be sold by each.
- Issued price announcements and price quotations in accordance with the agreements.
- Participated in meetings and conversations for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

Haarmann & Reimer and Hans Hartmann are charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations and \$350,000 for individuals. The fine may be increased to twice the gain derived from the crime by the defendant or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine of \$10 million for corporations and \$350,000 for individuals. The court will determine the appropriate sentence to be imposed under the U.S. Sentencing Guidelines.

In August, the Department filed its first charges against the following companies and executives for their role in the lysine conspiracy:

- Ajinomoto Co. Inc. of Tokyo, Japan pleaded guilty and agreed to pay a \$10 million criminal fine, and Kanji Mimoto, its former general manager of the Feed Additives Division and current associate general manager of the International Division, pleaded guilty and was fined \$75,000. Mimoto lives in Japan.
- Kyowa Hakko Kogyo Co. Ltd. of Tokyo, Japan pleaded guilty and agreed to pay a \$10 million criminal fine, and Masaru Yamamoto, its former general manager of the Agricultural Products Department and current general manager of the Food Division, pleaded guilty and was fined \$50,000. Yamamoto lives in Japan.

- Sewon America Inc., located in Paramus, New Jersey, pleaded guilty and has agreed to pay a criminal fine which will be determined by the court, and Jhom Su Kim, its president, pleaded guilty and was fined \$75,000. Sewon America is a subsidiary of Sewon Company Ltd., located in Seoul, South Korea. Kim is from Korea and currently lives in Ridgewood, New Jersey.

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